

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2006-000755-001 DT

01/17/2007

HON. MARGARET H. DOWNIE

CLERK OF THE COURT
S. Bindenagel
Deputy

STATE OF ARIZONA

F TYLER RICH

v.

MARC LEWIS (001)

CRAIG A LION

PHX MUNICIPAL CT
REMAND DESK-LCA-CCC

MINUTE ENTRY

9:26 a.m. This is the time set for oral argument re: Appeal. Plaintiff State of Arizona is represented by counsel F. Tyler Rich. Defendant Lewis is represented by counsel Craig A. Lion.

A recording of this proceeding is made by CD (FTR) in lieu of a court reporter.

Argument is presented.

IT IS ORDERED taking this matter under advisement.

9:27 a.m. Matter concludes.

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LATER:

RECORD APPEAL RULE/REMAND

Lower Court Case No. 20069000299-01, 02

The Superior Court has jurisdiction over this appeal pursuant to the Arizona Constitution, Article VI, Section 16, and A.R.S. § 12-124(A). The court has considered the record of the proceedings from the trial court, the memoranda submitted, and the arguments of counsel.

Appellant Marc Lewis was convicted of two criminal offenses in the Phoenix Municipal Court: (1) interference with judicial proceedings in violation of A.R.S. § 13-2810(A)(2); and (2) assault in violation of A.R.S. § 13-1203(A)(2). On appeal, he contends that his convictions were not supported by substantial evidence.

When reviewing the sufficiency of the evidence, an appellate court does not re-weigh that evidence to determine whether it would reach the same conclusion as the original trier of fact.¹ Instead, all evidence is viewed in the light most favorable to sustaining the lower court's judgment, and all reasonable inferences are resolved against the Appellant.² If conflicts in the evidence exist, an appellate court resolves such conflicts in favor of sustaining the judgment.³

When the sufficiency of evidence to support a judgment is questioned on appeal, an appellate court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.⁴ The Arizona Supreme Court has explained in State v. Tison that "substantial evidence" means:

More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.

129 Ariz. at 553, 633 P.2d at 362.

¹ State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Mincey, 141 Ariz. 425, 687 P.2d 1180, cert. denied, 469 U.S. 1040 (1984); State v. Brown, 125 Ariz. 160, 608 P.2d 299 (1980).

² State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Tison, 129 Ariz. 546, 633 P.2d 355 (1981), cert. denied, 459 U.S. 882 (1982).

³ State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Girdler, 138 Ariz. 482, 675 P.2d 1301 (1983), cert. denied, 467 U.S. 1244 (1984).

⁴ Hutcherson v. City of Phoenix, 192 Ariz. 51, 961 P.2d 449 (1998); State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State ex rel. Herman v. Schaffer, 110 Ariz. 91, 515 P.2d 593 (1973).

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After a careful examination of the record, and applying the appropriate standard of appellate review, this court must affirm the trial court's judgment. The trial testimony of Bob Mitchell and Donna Mitchell provided a factual basis for the trial judge's verdict. Although Appellant attempted to impeach the Mitchells' credibility as witnesses, an appellate court affords great weight to a trial court's assessment of witnesses' credibility and will not reverse its weighing of the evidence absent clear error.⁵ No such error is apparent here. The trial judge obviously believed the Mitchells' version of events. A reasonable trier of fact could do so.

IT IS ORDERED affirming the decision of the Phoenix Municipal Court.

IT IS FURTHER ORDERED remanding this matter to the Phoenix Municipal Court for all further appropriate proceedings.

⁵ *State v. Gallagher*, 169 Ariz. 202, 818 P.2d 187 (App. 1991).
Docket Code 512 Form L000